

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

KHALED ABDEL-FATTAH,

Plaintiff,

v.

Case No: 6:23-cv-659-CEM-LHP

FATIMA BELAL and MOHAMED Z.  
DELHOUM,

Defendants

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**ORDER**

This cause came on for consideration without oral argument on the following motion filed herein:

**MOTION: MOTION TO DISMISS AND REQUEST FOR  
HEARING ON MOTION TO DISMISS (Doc. No. 17)**

**FILED: May 30, 2023**

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**THEREON it is ORDERED that the motion is DENIED.**

Defendants, appearing *pro se*, have filed a motion to dismiss Plaintiff's complaint and request a hearing thereon. Doc. No. 17. On review, however, the motion fails to comply with the Local Rules, including Local Rules 3.01(a) and 3.01(g). *Id.* Moreover, Defendants have previously answered the complaint. *See*

Doc. No. 11. So, their motion to dismiss for failure to state a claim is “a nullity.” *See Leonard v. Enter. Rent a Car*, 279 F.3d 967, 971 n.6 (11th Cir. 2002) (“After answering the complaint, the defendants filed Rule 12(b)(6) motions to dismiss the plaintiffs’ claims. Under Rule 12(b), these motions were a nullity; by filing an answer, the defendants had eschewed the option of asserting by motion that the complaint failed to state a claim for relief.”); Fed. R. Civ. P. 12(b) (“A motion asserting [several defenses, to include improper venue and failure to state a claim], must be made before pleading if a responsive pleading is allowed.”). *See also Doolin v. Borg Warner Corp.*, No. 3:16-cv-778-J-34PDB, 2017 WL 10841697, at \*1 (M.D. Fla. Oct. 17, 2017) (“[D]istrict courts routinely deny motions to dismiss which are filed simultaneously with or after an answer is filed.” (citations omitted)).

For these reasons, Defendants’ Motion to Dismiss and Request for Hearing on Motion to Dismiss (Doc. No. 17) is **DENIED**.

**DONE** and **ORDERED** in Orlando, Florida on June 1, 2023.

  
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LESLIE HOFFMAN PRICE  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record  
Unrepresented Parties